

EXHIBIT A

9/28/07

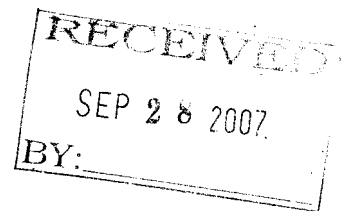
TO: Attorney King

FROM: Alton Pryor

Pages ¹⁰ ~~34~~₁ including this one.

Alton Pryor

(571) 272-0621





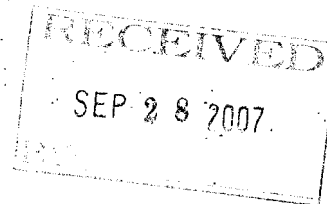
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/403,192	01/13/2000	JACKI MULLER	81000.3000	6962
7390 SPECKMAN LAW GROUP 1501 WESTERN AVENUE SUITE 100 SEATTLE, WA 98101			EXAMINER PRYOR, ALTON NATHANIEL	
			ART UNIT	PAPER NUMBER
			1616	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/23/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



Notice of Abandonment

Application No:

09/403,192

Applicant(s)

MULLER ET AL.

Examiner

Alton N. Pryor

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 23 February 2007.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Interview Summary	Application No.	Applicant(s)	
	09/403,192	MULLER ET AL.	
	Examiner	Art Unit	
	Alton N. Pryor	1616	

All participants (applicant, applicant's representative, PTO personnel):

(1) Alton N. Pryor. (3) _____

(2) Attorney King. (4) _____

Date of Interview: 24 September 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.

If Yes, brief description: _____

Claim(s) discussed: _____

Identification of prior art discussed: _____

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Attorney states that the office action was mailed to the address of the old office's location.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/403,192	01/13/2000	JACKI MULLER	81000.3000	6962

7590 SPECKMAN LAW GROUP 1501 WESTERN AVENUE SUITE 100 SEATTLE, WA 98101	02/23/2007	EXAMINER PRYOR, ALTON NATHANIEL
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ART UNIT	PAPER NUMBER
	1616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.		Applicant(s)	
	09/403,192		MULLER ET AL.	
	Examiner		Art Unit	
	Alton N. Pryor		1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on 28 November 2006.

2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☐ Claim(s) 35-73 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) 37 and 60-71 is/are allowed.

6) ☐ Claim(s) 35,36,38-59,72,73 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ 5) <input type="checkbox"/> Notice of Informal Patent Application 6) <input type="checkbox"/> Other: _____
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DETAILED ACTION

- I. Rejection of claims 35,36,38-59 under 35 USC 112, 1st will not be maintained in light of amendment filed 11/28/06. Applicant has support for employing "water-base" in the claims since suspension concentrates A-E on pages 8-9 of the specification all contain water.
- II. Rejection of claims 35,36, and 38-59 under 35 USC 103(a) as being obvious over Murphy will be maintained for reason on record and reason as follows. Claims 72 and 73 are added to this rejection.
 - A. Applicant argues:
 1. The instant invention does not contain oil. Murphy teaches oil based compositions rather than water-based compositions as instantly claimed. The instant invention contains ethoxylated castor oil. Examiner has argued that ethoxylated castor oil is an oil. However, Applicant argues that ethoxylated castor oil is not an oil and for this reason instant invention does not contain oil(s). Applicant also provides exhibit B describing the properties of Cremophor EL (an ethoxylated castor oil) as forming a clear solution in water. Base on this property, Cremophor EL would not be considered an oil since oils do not form solutions in water, but instead form a separate layer when mixed with water. In conclusion all of the instant compositions are made without oil.

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2. The adjuvant compositions taught by Murphy include modified organosilicone and an oil carrier as the two main ingredients. The adjuvant compositions were prepared without water. Thus Murphy's adjuvant compositions are oil based.
3. Murphy example compositions do not contain an active (examples 2-6) and therefore it remains unknown whether the spreading effect would have any significant effect on herbicidal activity under practical conditions.

B. Examiner argues:

4. The instant claims employ "comprising" language and therefore the oil(s) as well as other ingredients taught in Murphy are not excluded from the claimed invention. Examiner agrees that ethoxylated castor oil (Cremophor EL) would not be considered an oil since it forms a solution once combined with water. However it is reiterated that the "comprising" language employed in the instant claims does not exclude the presence of oils being employed therein and for this reason the oils taught by Murphy including oil and modified organosilicone would read on the instant claims. With respect to Murphy's examples not containing actives, it is not required that Murphy provide exemplifications of all possible compositions. However, from the reading of Murphy it is suggested that his oil containing compositions can comprise actives such as herbicides

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(desmedipham). See abstract, column 4 lines 7-17. In the absence of unexpected results it would not be believable on its face that the spreading effect would not have any significant effect on the herbicidal activity under practical conditions since Murphy suggests the spreading effect would effect the (pesticidal (herbicidal) activity. In addition, examiner disagrees with Applicant in that Murphy's compositions do not contain water since Example 6 in Murphy employs water for the agricultural oil composition.

- III. Claims 37,60-71 are allowable for reason(s) on record in office action dated 6/28/06.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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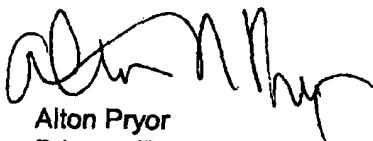
Page 5

Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 571-272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Alton Pryor
Primary Examiner
AU 1616

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* TRANSACTION REPORT *
* SEP-28-2007 FRI 06:39 AM *
* FOR: SPECKMAN LAW GROUP 206 382 2669 *

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